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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/471,153	12/23/1999	JEFFREY LEE JONES	8200.163	7070

7590 06/17/2003
LINIAK BERENATO LONGACRE & WHITE
6550 ROCK SPRING DRIVE
SUITE 240
BETHESDA, MD 20817

EXAMINER

NGUYEN, XUAN LAN T

ART UNIT PAPER NUMBER

3683

DATE MAILED: 06/17/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/471,153

Applicant(s)

JONES ET AL.

Examiner

Lan Nguyen

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment: See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 April 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,4-6 and 8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,4-6 and 8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☒ The proposed drawing correction filed on 08 April 2003 is: a) ☒ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s) _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Drawings

1. The corrected or substitute drawings were received on 4/8/03. These drawings are approved.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1 and 4-6 are rejected under 35 U.S.C. 102(b) as being anticipated by Urban et al. (USP 4,476,968).

Urban et al. show a vehicle axle beam and drum brake assembly as in the present invention comprising: a pneumatic brake actuator cylinder 41 with an actuator rod 124; a brake actuating shaft 34; a brake actuating lever 39; an S-cam 32; a brake spider 14 non-removably secured to an axle beam, said brake spider including a pivoting end support plate and an actuator support plate provided with an opening 56 for receiving shaft 34 therethrough; a mounting sleeve 36 secured at a first end to cylinder 41 at bracket 40, and secured at a second end to the spider at bracket 106; a pair of shoes 22 for frictional engagement with drum 12; a cam follower 42 secured on each

shoe; wherein when said actuator rod 124 is extending to actuate shaft 34 to rotate S-cam 32 to bring the shoes into engagement with drum 12.

Re: claims 4-6, Urban further shows first mounting bracket 40 and second bracket 106 as claimed.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Urban et al. (USP 4,476,968).

Urban's vehicle axle beam and drum brake, as discussed in the above rejection of claims 1 and 4-6, meets most of the claimed feature of claim 8 except for "brake spider welded to said axle beam" and "said actuator support plate being axially offset from said pivoting end support plate;". Urban further shows in figure 6 that the pivoting end support plate including aperture 58 is axially offset from the actuator support plate at aperture 56. Urban shows in figure 1 where the spider 14 is secured to an axle beam with bolts through bolt holes 16. The Examiner takes an Official Notice that bolting or welding are old and well-known methods of securing a spider to an axle and would have been obvious to one of ordinary skills to use either the bolts or the welds to secure the spider to the axle.

Response to Arguments

6. Applicant's arguments filed 4/8/03 have been fully considered but they are not persuasive.

Re: claim 1, Applicant argues that Urban does not disclose an axle beam. The Examiner would like to call attention to column 5, lines 35-37 of Urban where Urban states "spider assembly 14 includes a stamped spider member 52 having a generally annular aperture 54 therethrough for receipt of an axle shaft or the like." It is clear from this passage that Urban's spider plate is secured to an axle beam, as claimed in the instant invention.

Applicant further argues that bolting is considered to be removable while claim 1 calls for "non-removably secured". In reviewing the specification in order to define "non-removably secured", it is found from page 3, line 21 to page 4, line 1, where it states "A brake spider 5 is non-removably secured to the axle beam2, preferably by welding." First, the term "preferably" does not exclude other means of fastening besides welding. Hence, the term "non-removably secured" is not defined in the specification as only for welding. Secondly, in the context of securing the spider plate to the axle, bolting is just as "non-removably" as welding until it is necessary to remove the spider plate by using a torch to cut the weld and to remove the spider plate.

In conclusion, the Examiner maintains that Urban meets the limitations of claim 1. The rejection is proper and is maintained above.

Re: claim 8, Applicant argues that Urban does not disclose an axle beam. The Examiner would like to call attention to column 5, lines 35-37 of Urban where Urban states "spider assembly 14 includes a stamped spider member 52 having a generally annular aperture 54 therethrough for receipt of an axle shaft or the like." It is clear from this passage that Urban's spider plate is secured to an axle beam, as claimed in the instant invention.

Applicant further argues that claim 8 calls for the spider plate to be welded to the axle while Urban does not disclose a welded connection. Applicant is correct. That is why claim 8 was rejected as an obviousness rejection and not an anticipation rejection. The reason being bolting and welding are both old and well-known methods of fastening. Urban discloses in column 6, lines 44-47 that these two methods are used interchangeably and are considered as equivalents in terms of methods of fastening.

In conclusion, the Examiner maintains that the rejection of claim 8 is proper and is maintained above.

Conclusion

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lan Nguyen whose telephone number is 703-308-8347. The examiner can normally be reached on M-F, 9 to 5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jack Lavinder can be reached on 703-308-3421. The fax phone numbers


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for the organization where this application or proceeding is assigned are 703-305-7687 for regular communications and 703-305-7687 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-306-4177.

XLN

XLN
June 12, 2003


JACK LAVINDER
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600